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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,817	02/18/2004	Floyd Backes	160-046	1490
34845	7590	09/06/2006	EXAMINER	
McGUINNESS & MANARAS LLP 125 NAGOG PARK ACTON, MA 01720			HOLLIDAY, JAIME MICHELE	
			ART UNIT	PAPER NUMBER
			2617	

DATE MAILED: 09/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/780,817	BACKES ET AL.	
	Examiner	Art Unit	
	Jaime M. Holliday	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 10, 2006 has been entered.

Response to Arguments

2. Applicant's arguments filed July 10, 2006 have been fully considered but they are not persuasive.

Applicant basically argues that the Office has mistaken the claimed selection of transmission power for selection of a channel.

Examiner respectfully disagrees, because Strawczynski et al. teach that the subscriber terminal measures the power level of each traffic channel in the list against a threshold to determine whether it is useable. The subscriber terminal selects the traffic channel determined to contain the least power level of those scanned. The power level selection and channel selection are performed at the same time, and are implemented together.

Therefore, because of the above reasons, Examiner maintains the U.S.C. 103 rejections.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. **Claims 1 and 2** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Idnani et al. (Pub # U.S. 2004/0121765 A1)** in view of **Strawczynski et al. (U.S. Patent # 5,345,597)**.

Consider **claim 1**, Idnani et al. clearly show and disclose a Session Initiation Protocol (SIP) proxy user agent (UA) to serve as a gateway between a SIP core network and a SIP-unaware mobile. The first embodiment of the present invention includes a radio access network (RAN) **110** and remote units, such as mobile station (MS) **101**. However, the present invention is not limited to remote units that are mobile. For example, a remote unit may comprise a desktop computer wirelessly connected to the radio access network. It is known in the art that a standard desktop computer has software implantation capabilities, reading on the claimed "program product for use by a device in a wireless communications environment," (paragraphs 8 and 10). Communication system **100** comprises well known entities, such as base sites and SIP components **120** and **125** (each comprising a wireless network interface (**121** and **122**) and a SIP proxy UA (**123** and **124**)), and SIP registrar/presence server **130**, reading on the claimed "platform dependent logic," (paragraph 11). When the mobile station begins obtaining service from BS **111** it sends a registration request message to the SIP component **120**, reading on the claimed "platform independent logic can communicate with platform dependent logic." This

registration request message is not a SIP message, but rather a registration message in accordance with the wireless protocol utilized by the mobile station, reading on the claimed "platform independent logic for passing platform independent protocol messages between wireless devices, wherein the platform independent logic is not dependent upon the underlying hardware upon which it is employed," (paragraph 14). Acting as a proxy user agent for the mobile station, SIP proxy UA sends a combined registration and event subscription message for the mobile station to the SIP registrar/presence server. Proxy UAs are responsible for translating the call control messaging between SIP and the appropriate wireless protocol, reading on the claimed "platform dependent logic for use by each wireless device to translate the platform independent protocol messages into platform dependent commands for execution, the platform dependent commands being dependent upon the hardware upon which they are employed," (figure 2 and paragraph 15).

However, Idnani et al. do not specifically disclose that the message sent from the mobile station and translated by the proxy UA affects channel selection, transmission power level and load balancing.

In the same field of endeavor, Strawczynski et al. clearly show and disclose a call set-up technique characterized by the use of channel information from both base station and subscriber terminal in determining the radio traffic channel upon which to set-up a new call. The base station scans all available traffic channels, and selects traffic channels that are useable or free of

interference at the base station's end of the link. A list of traffic channels is made and forwarded to the subscriber terminal via a signaling channel linking the base station and the subscriber terminal, reading on the claimed "at least some of the platform independent protocol message being indicative of channel selection, and at least some of the platform independent protocol messages being indicative of wireless transmission power level and load balancing," (abstract, col. 3 lines 60-65). Once received, the list of useable traffic channels, is scanned by the subscriber terminal. The subscriber terminal can then select traffic channels which are also free of interference at the subscriber end of the link, reading on the claimed "logic operable to independently select a channel based at least in-part on received protocol messages," (col. 3 line 65- col. 4 line 1). The subscriber terminal measures the power level of each traffic channel in the list against a threshold to determine whether it is useable. The traffic channel determined to contain the least power level of those scanned is selected by the subscriber terminal, reading on the claimed "logic operable to independently select a wireless transmission power based at least in-part on received protocol message," (col. 5 lines 56-64).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide a channel list so that a subscriber terminal can select a channel based on power level and interference as taught by Strawczynski et al. in the concept of Idnani et al. in order to effectively transmit messages among devices in a communication system.

Consider **claim 2**, Idnani et al., as modified by Strawczynski et al., disclose the claimed invention **as applied to claim 1 above**, and in addition Strawczynski et al. further disclose that once selected, the subscriber sends a message to the base station on the signaling channel providing an indication of which traffic channel was selected. The base station and the subscriber terminal can then switch to the traffic channel, reading on the claimed "platform independent messages include claim messages used by devices to select a channel on which to communicate," (paragraph 67).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to send a message with the selected channel as taught by Strawczynski et al. in the concept of Idnani et al. in order to communicate effectively among devices in a communication system.

7. **Claims 3-8** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Ibnani et al. (Pub # U.S. 2004/0121765 A1)** in view of **Strawczynski et al. (U.S. Patent # 5,345,597)**, and in further view of **Kallio (Pub # U.S. 2004/0014422 A1)**.

Consider **claim 3**, and **as applied to claim 1 above**, Ibnani et al., as modified by Strawczynski et al., clearly show and disclose the claimed invention except that the messages, reading on the claimed "platform independent messages," sent are Announce messages.

In the same field of endeavor, Kallio clearly shows and discloses an invention that enables terminal devices to efficiently transition from a first access

point to a second access point based on service discovery information that is transmitted by the second access point. A terminal device **402** enters a page scan state, where it awaits one or more paging messages. Access point **406** enters a paging mode and transmits one or more paging packets. These paging packets each include an identification number based on the address of terminal device, reading on the claimed "platform independent messages include Announce messages used by devices to indicate their presence and their protocol capability to other devices," (figures 8 and 10, paragraphs 13, 133 and 134).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include information about the sender of messages sent as taught by Kallio in the concept of Idnani et al., as modified by Strawczynski et al., in order to allow devices to effectively communicate in a communication system.

Consider **claim 4**, the combination of Idnani et al. and Strawczynski et al., as modified by Kallio, disclose the claimed invention **as applied to claim 3 above**, and in addition, Kallio further discloses the terminal device, which is in page scan mode, responds to the paging packets, from the access point, by transmitting a packet that includes its address, reading on the claimed, "platform independent messages include Bid messages, wherein a sending device sends a Bid message to a receiving device to indicate that the sending device desires to

communicate in the wireless communications environment via the receiving device," (paragraph 134).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide a response message to a page message as taught by Kallio in the concept of Idnani et al., as modified by Strawczynski et al., in order to allow devices to effectively communicate in a communication system.

Consider **claim 5**, the combination of Idnani et al. and Strawczynski et al., as modified by Kallio, disclose the claimed invention **as applied to claim 4 above**, and in addition, Kallio further discloses that the access point receives a packet from terminal device, which includes its address information. In response, the access point transmits a frequency hop synchronization (FHS) packet, reading on the claimed "Accept message," (paragraph 135). The FHS packet is used to pass information that allows terminal device to synchronize with the frequency hopping sequence of access point. Upon receipt of this FHS packet, terminal device transmits a further packet to confirm receipt of the FHS packet. Both terminal device and access point enter into the connection state at this point, reading on the claimed, "platform independent messages include Accept messages, wherein a sending device sends an Accept message to a receiving device in response to a Bid message to indicate that the sending device will allow the receiving device to communicate in the wireless communications environment via the sending device," (paragraph 135).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide a confirmation message sent after the response message taught by Kallio in the concept of Idnani et al., as modified by Strawczynski et al., in order to allow devices to effectively communicate in a communication system.

Consider **claim 6**, the combination of Idnani et al. and Strawczynski et al., as modified by Kallio, disclose the claimed invention **as applied to claim 5 above**, and in addition, Idnani et al. further disclose that when the mobile station begins obtaining service from a base station it sends a registration request message to SIP component that comprises a proxy UA, which is responsible for translating the call control messaging between SIP and the appropriate wireless protocol. The SIP proxy UA then sends a combined registration and event subscription message for the mobile station to SIP registrar/presence server, reading on the claimed "platform independent messages include Registration Request messages, wherein a sending device sends a registration request message to a receiving device to indicate that the sending device desires to communicate in the wireless communications environment via the receiving device using a particular protocol," (paragraphs 14 and 15).

Consider **claim 7**, the combination of Idnani et al. and Strawczynski et al., as modified by Kallio, disclose the claimed invention **as applied to claim 6 above**, and in addition, Idnani et al. further disclose in response to the registration request message, SIP registrar sends SIP OK message to SIP proxy

UA, reading on the claimed, "platform independent messages include Registration Acknowledge messages, wherein a sending device sends a Registration acknowledge message to a receiving device in response to a Registration Request message," (paragraph 30). Kallio also further discloses that its system for handovers is implemented in a Bluetooth environment, which defines a short-range radio network, reading on the claimed "sending device understands that the receiving device will communicate in the wireless communications environment using the Dynamic Radio Control Protocol," (paragraphs 4 and 13).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide a Bluetooth environment as taught by Kallio in the concept of Ildani et al., as modified by Strawczynski et al., in order to allow devices to effectively communicate in a communication system.

Consider **claim 8**, and **as applied to claim 1 above**, Ildani et al., as modified by Strawczynski et al., clearly show and disclose the claimed invention except that the communication is an 802.11 wireless network.

In the same field of endeavor, Kallio clearly shows and discloses that an operational environment for the system for handovers embodies multiple terminal devices communicating with access points across various ad hoc networks, reading on the claimed "the wireless communications environment is an 802.11 wireless network," (paragraph 35). It is known in the art that an 802.11 wireless network is an ad hoc network.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide an ad hoc wireless network as taught by Kallio in the concept of Idnani et al., as modified by Strawczynski et al., in order to allow devices to effectively communicate in a communication system.

Conclusion

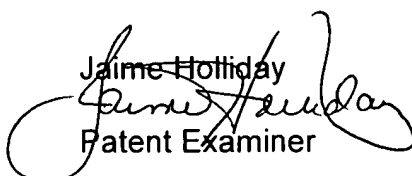
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jaime M. Holliday whose telephone number is (571) 272-8618. The examiner can normally be reached on Monday through Friday 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on (571) 272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


CHARLES APPIAH
PRIMARY EXAMINER


Jaime Holliday
Patent Examiner